

**SHUTDOWN: EXAMINING FEDERAL GOVERNMENT
CLOSURE IMPACTS ON THE DISTRICT OF
COLUMBIA**

HEARING

BEFORE THE

SUBCOMMITTEE ON EMERGENCY
MANAGEMENT, INTERGOVERNMENTAL RELATIONS,
AND THE DISTRICT OF COLUMBIA

OF THE

COMMITTEE ON
HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

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SHUTDOWN: EXAMINING FEDERAL GOVERNMENT CLOSURE IMPACTS ON THE DISTRICT OF COLUMBIA

THURSDAY, JANUARY 30, 2014

U.S. SENATE,
SUBCOMMITTEE ON EMERGENCY MANAGEMENT,
INTERGOVERNMENTAL RELATIONS,
AND THE DISTRICT OF COLUMBIA,
OF THE COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 2:32 p.m., in room SD-342, Dirksen Senate Office Building, Hon. Mark Begich, Chairman of the Subcommittee, presiding.

Present: Senator Begich.

OPENING STATEMENT OF SENATOR BEGICH

Senator BEGICH. We will call this meeting to order. Good afternoon, and welcome to the Subcommittee on Emergency Management, Intergovernmental Relations, and the District of Columbia. We are here today to look at how the people of Washington, DC, are impacted when the Federal Government shuts down, as it did most recently last October, and what steps can be taken to prevent the harm in the future.

People in all 50 States, including my home State of Alaska, felt the pain of a shutdown, but our Nation's capital, especially tied to Federal operations with such large proportions of Federal workers and a city government that must wait for Congress to approve its spending in the District of Columbia, faces unique challenges.

I am honored to be joined at today's hearing by four distinguished public servants who have worked for many years in many different ways to help this city succeed and grow. Their different perspectives and insights are vital to understanding what happened and how to move forward.

As I have said many times, the government shutdown was totally unnecessary and inflicted needless economic damage on families and businesses across this country. When too many in Congress put politics ahead of working together on commonsense solutions to our problems, Congress fails to do its basic job of keeping our government running.

I was encouraged that, in the end, Members of the House and Senate were able to come together in a bipartisan way to forge a deal that ended the shutdown. Our Alaska delegation set a good

example of how we can work across party lines to solve problems. But it is essential that in putting the unnecessary crisis behind us we do not put our heads in the sand and ignore the effects of the shutdown on people's lives. It is important for us to know the consequences of failure to compromise so that we are even more motivated to avoid future shutdowns.

In my home State of Alaska, we have the third highest proportion of Federal workers of any State. Over 16,000 Alaskans were furloughed from their jobs, left in limbo as to whether or not they would be paid. That uncertainty hits Alaska families hard. With such a high cost of living, there are not many Alaskans who have the luxury of being able to skip a few paychecks while the Federal Government gets its act together.

Our King Crab fisheries could not open on schedule because the Federal workers in charge of issuing permits and handling fishing quotas were told to stay home. That is real money out of the pockets of Alaska fishermen. That is bills that are not paid, goods and services that are not bought. It is hard to fully calculate the final cost to my State, but some have put it as high as \$39 million.

During the early part of the shutdown, 5,000 members of our armed services were furloughed. Veterans were turned away when attempting to file medical claims. And benefit claims for Alaska's 74,000 veterans were processed much more slowly. It is outrageous and unacceptable that Congress' dysfunction jeopardized the hard-earned pay and benefits of the men and women who put their lives on the line to defend our country.

I could talk all day about Alaska and what the shutdown meant for my State at least for the rest of our hearing, but the main focus today is to discuss how the shutdown has impacted Washington, DC. We need to hear how the District of Columbia was affected and what we can do to move forward to ensure that these pointless shutdowns do not keep happening. I look forward to the hearing, and I know we have a great line up of guests here today, and I really greatly appreciate you taking the time.

Also I want to recognize Senator Paul Strauss, the shadow Senator for Washington, DC, in the audience today. Thank you very much.

First, we have four panelists, and we thank you. Congresswoman Holmes Norton, this is the first time I have been able to be here and stay without being rushed out for a vote, so I think I will say this, even though it is not true: I made sure that vote happened before this hearing so we could be here. [Laughter.]

But it seems like every time you are here, I am rushing out. But thank you for being here, and as the sole Congressional representative of the District of Columbia since 1991, you have been incredible in your advocacy for Washington, DC, and I know meeting with myself and others, and thank you for being here today. Let me start with you, and then we will just go down the list here.

**TESTIMONY OF THE HON. ELEANOR HOLMES NORTON,¹ A
REPRESENTATIVE IN CONGRESS FROM THE DISTRICT OF
COLUMBIA**

Ms. NORTON. Thank you very much, Chairman Begich, first of all, for your attention to the District, for your assistance to the District, and certainly for this hearing. It is a hearing perhaps provoked by your own experience initially. I did not recognize that Alaska had the third highest number of Federal employees, so I know your constituents must have felt this very deeply. But we appreciate that you are able to bring that experience to what the District of Columbia experienced during that time.

Mr. Chairman, I am going to summarize my testimony and ask that my entire testimony be entered into the record.

Senator BEGICH. Without objection.

Ms. NORTON. Mr. Chairman, it may have taken a shutdown of the Federal Government to do it, but I think it is now pretty clear how wrong it is, how absurd it is, to allow the local funds of a local jurisdiction to be caught up by the Federal Government at any time, certainly during a shutdown, ignoring the oldest American government principle, which is that local control of local dollars for local citizens.

Mr. Chairman, it is really not surprising to look at the polls and see that across all lines, overwhelmingly Americans support budget autonomy for the District of Columbia. I think that number would probably be increased after this hearing when they understand that a shutdown of the District could occur because of the absence of budget autonomy. A large majority of Republicans, 72 percent, support budget autonomy for the District, 75 percent of Independents, 71 percent of Democrats.

After the unnecessary debacle of the shutdown, we are asking for the return of budget autonomy to the District of Columbia. We say "return," Mr. Chairman, because the District of Columbia had autonomy over its own budget for the first 80 years of its experience. Mr. Chairman, I was a constitutional lawyer before I came to Congress, and constitutional lawyers and the courts will tell you that when you look at what the framers intended, you look at the period closest to when the Constitution was passed, during that period and for 80 years, the District of Columbia had control over its own budget. There was back-and-forth about how much Home Rule, but isn't it interesting to note that there was no doubt that local funds should be in the hands of local officials?

It was not until 1878 that Congress took away budget autonomy, and at that point it is interesting to note that it also wiped out what had been various forms of Home Rule and gave the District the most undemocratic regime the United States has ever had, a presidentially appointed three-commissioner form of government. That meant that in the Nation's capital there was no Mayor, there was no Council, and there certainly was no Delegate to the Congress. It was not until 40 years ago that we began to implement what is now called the Home Rule Act of 1973.

Mr. Chairman, as I sit here in the Senate, I want to remind you that the Senate version of that 1973 Home Rule Act, in fact, did

¹The prepared statement of Congresswoman Norton appears in the Appendix on page 21.

have budget autonomy for the District of Columbia. It was the House that rejected that provision, and the Home Rule Act passed without it. We are hopeful—that Congress may be close to righting itself again on this issue.

Not long after I came to the Congress in 1995 and 1996, there were multiple shutdowns of parts of the Federal Government, and to his credit, Speaker Newt Gingrich, whom I worked closely with during that period—Congressman Davis also was my close partner throughout that period. But I would go to Speaker Gingrich's office as parts of the Federal Government shut down, and then the Congress would get through one appropriation, and the rest, but the District appropriation had not gone through, and I would say, "Newt, you are not going to let them shut down the District government, are you?" And sure enough, he kept the District government open during these shutdowns.

In 2004, the Republican-led Senate approved by unanimous consent a bill granting the District budget autonomy. That bill died in the House. President Bush, during 3 years of his Administration, endorsed budget autonomy for the District of Columbia.

I am gratified that the notion of leaving the District with control over its own \$6 billion raised from its own residents and businesses should remain in the District has grown worth bipartisan support in the last couple of years. In the 112th Congress Senator Lieberman and Senator Collins introduced a bipartisan bill to give the District budget autonomy. My good friend in the House whose committee has jurisdiction over the District of Columbia, Chairman Darrell Issa, strongly supports budget autonomy and has been able to get his own bill, which has most elements of budget autonomy, out of his Committee. The bill would still have to be perfected, but he has gone that far.

We have the same support from the President of the United States. The President went so far, Mr. Chairman, in his fiscal year (FY) 2014 budget to include actual language giving the District budget autonomy. The Senate Appropriations Committee passed that language. We should have budget autonomy today. The House did not allow that change to go through.

During the 16-day shutdown, I was gratified to hear some of our Republican colleagues on the floor. They did try to get the District out of the morass when they were trying to reopen the government agency by agency, and I understand how concerned Democrats and the President were with piecemealing appropriations. Of course, DC is not part of the Federal Government, so we really felt that we had been caught betwixt and between in a situation we could do nothing about.

But Representative Ander Crenshaw, who is the Chairman of the Appropriations Subcommittee with jurisdiction over the District, said during his floor remarks, "The District's locally raised funds should not be withheld from them during this current Federal shutdown. This disagreement that the Republicans and the Democrats are having over Federal spending should not stop the District from using its own locally raised funds like any other city in America." I do not believe our appropriators ultimately would oppose budget autonomy for the District.

The fiscal year 2014 continuing resolution (CR) that reopened the Federal Government did make a breakthrough for the first time. It permitted the District to spend its money throughout 2014, although if you will recall, Mr. Chairman, the Federal Government was spending its money only until very recently, and it was spending at 2013 levels. That was the first time that we had been able to keep the District open and going on next year's funding even though the Federal Government itself had not yet been funded for the rest of the fiscal year.

Perhaps even more significantly, though the Congress did not grant us the permanent shutdown authority that we have asked, just give us no-shutdown authority, it did permit the District to spend its local funds throughout fiscal year 2015 during a Federal Government shutdown. So that means even if there are disagreements between the House and the Senate or the Congress and the Administration, there will be no shutdown threat to the District until October 1, 2015. I suppose we ought to be happy and go home.

Disputes over the Federal budget, interestingly, have not ever had anything to do with D.C. or its local funds. Indeed, the fiscal condition of the District of Columbia is among the best in the United States. That is one of the reasons that Chairman Darrell Issa, after a hearing of his own on the District, immediately came out for budget autonomy for the District of Columbia. He noted that not only had the District, unlike the Federal Government, had no problem balancing its budget, but that we have a \$1.5 billion reserve fund because the District government is very careful.

We do not believe, Mr. Chairman, that there is a single Member of the Congress who wants to bring a big, complicated city to its knees. We think they do not want to do it for the District's sake, and we think they also understand that the District of Columbia serves the Congress itself, Federal officials, businesses, foreign embassies. No one, I think, intends this. The waste captured by requiring the District to bring its local budget here is startling. The District, even if it does not shut down, has to go through the same contingency exercise that the entire Federal Government goes through in case there is a shutdown. Even if the District is kept going because we are operating under CRs, and, by the way, thanks to Republican appropriators some years ago, when the Federal Government operates under one of those CRs, the District operates at next year's funding levels. After all, we have already passed our budget.

But think about what operating under a CR does to a local government. If there is any threat of a District shutdown, Wall Street notices that. It already notices that we have to come two places to have our budget passed in the first place. Successive CRs greatly hinder the operations of the District. They make it difficult to plan our activities because you are still operating on a CR. The city's partners and Wall Street can charge a risk premium due to uncertainty created by successive CRs.

Budget autonomy would eliminate the uncertainty that is inherent in the Congressional approval process. The unnecessary costs it adds to our taxpayers, the inaccurate revenue forecasts that we must make because we are now in your budget year, not the same

budget year that, for example, Alaska and almost every other jurisdiction in the United States is in, countless operational problems. We would be most happy, Mr. Chairman, to be able to use the typical State and local government fiscal year from July 1 to June 30. We cannot do that. The reason that Alaska is on that fiscal year goes back to the period when every government understood that you want to get your budget done before school opens. Our budget is done after school opens. That causes great hardship in and of itself. If for no other reason, we want to go on the same fiscal year everyone else has.

Mr. Chairman, if I may say so, the District budget consumes—unlike this Committee, which brings us here when there is something that has to be done, imagine what this does to the entire Senate and House and to its Appropriations Committees. They have to have Subcommittee time and Committee time and floor time on somebody's budget they know nothing about, care nothing about, could be less interested in. If that is not the very definition of “nonsense,” I do not know what is.

Mr. Chairman, I am very grateful that recent history demonstrates that the Congress itself may be moving toward D.C. budget autonomy. I just hope it gets up its nerve. We hope that last year's shutdown will be the final chapter on why the city's local budget should become effective upon passage by the District of Columbia.

Thank you again for this hearing, Mr. Chairman.

Senator BEGICH. Thank you very much, Congresswoman.

The next person we have is former Congressman Tom Davis, who served the people of Virginia's 11th District for 7 years. He was Chairman of the House Oversight and Government Reform Committee from 2003 to 2007 and had jurisdiction over the District of Columbia. He also is an incredible trivia person. I served on one of his teams, and we won. I was just the pawn in the game. You were the official. Please.

**TESTIMONY OF THE HON. TOM DAVIS,¹ FORMER CHAIRMAN,
HOUSE GOVERNMENT REFORM COMMITTEE**

Mr. DAVIS. Senator, thank you so much for holding this hearing and for paying attention to this issue. I think this is just an oversight on the part of the Congress. I do not think anybody ever intended this to occur. But like so many things, it happened, it has continued to happen, and perhaps we can get a fix out of this. So I really thank you for holding this.

When I came into Congress in 1995, the city was in pretty dire straits. Their bond rating was junk bond status. The city was close to bankruptcy. Crime was high. But a lot of things have occurred over the last 20 years. It has been a remarkable turnaround. It is a far different city today.

I would ask that my full comments be made part of the record.

Senator BEGICH. Without objection.

Mr. DAVIS. The crime rate has fallen dramatically, its budget is running in the black, and I believe it has probably got the largest surplus of any city in the United States, which does not do you any

¹The prepared statement of Congressman Davis appears in the Appendix on page 24.

good if you cannot spend it. But they have done a very good job, and I think the need now for Congressional micromanagement is no longer present. The city has shown itself to be a responsible steward of its own destiny. The Control Board also remain dormant over the city if they should fail to balance their budget in any one year, so that is a strong incentive for them to continue to get surpluses out of their budget.

It is difficult to substantiate why the city's own budget, raised through local taxes from local citizens, should be frozen or delayed just because Congress has not been able to pass an Appropriation bill. Although this is a relatively rare occurrence, it did happen twice, in 1995—and we worked to relieve that somewhat—and once last year. A Federal shutdown wreaks havoc on the city's budget and operations. It jeopardizes not only city services but the operations of the Federal Government. And even if you deem all the employees essential, as the Mayor said, they still do not get paid. So there are a lot of issues with that that we maybe have a chance to correct.

No other city in the world operates in this manner and with these restrictions. We have to ask ourselves, "Why should the capital city, the beacon light for the free world, be subject to these constraints?" And the answer, of course, is that it should not. City taxpayers should be able to keep their city running with city tax dollars regardless of what budget deadlocks occur here on Capitol Hill.

Our Founding Fathers reserved the District Clause in the Constitution because they were not sure what would happen. This was a city—it was originally going to go to Philadelphia, but time ran out in one Congress. In an ensuing Congress, a deal was reached where the new government would pick up the debt from the Revolutionary War, which the North wanted, and the South would get the capital. And we knew it would be 100 square miles, but they did not know much else. So they put a District Clause in the Constitution giving Congress plenary power over laws pertaining to the District. I do not think they could have foreseen a city of 600,000 people with the myriad of issues that have been raised in the ensuing years. So, in their wisdom they said Congress shall have exclusive authority over that.

When the city's home rule was restored in the 1970s, after nearly a century of appointed leadership, Congress also inserted a layover provision of 30 legislative days to disapprove any ordinance passed by the City Council. What we need to understand is the city is now passing everything on an emergency basis. It is taking a lot of time and effort. Congress has not exercised this layover provision in the time I was in Congress as over the last 20 years. Only on a few occasions does it ever impose its will, usually through the appropriation process and usually on some hot-button social issue. So the need for that layover provision is also something, I think, that needs to be looked at. It is rarely utilized. I know it has not been utilized in the last 20 years and I think for some time before that. And that would also give the city more autonomy, I think, and efficiency in the way it conducts itself.

It is just hard to believe that our Founders would have envisioned the inaction of Congress not passing a budget would shut down the operations of the municipal government that was sup-

posed to protect it, and this has been the unintended consequence of the government shutdown. And while it may be another decade before we face the issue again, this is an appropriate time for Congress to address this issue.

In doing so, I just want to emphasize Congress does not give up anything. The District Clause reserves the power of Congress to step in at any time. But the change would allow the city and the continuity in city government that not only would make it more efficient, but it would be predictable. It also holds the city elected officials responsible for bad results instead of just blaming Congress. There is no reason to link the operation of local government with local money, to the dysfunction of the Congressional budget process.

There have been sticking points in the past around some of the riders that Congress has put on particularly the abortion issue. If it rides up, what does this do to that? Congress reserves the power on an annual basis with its Appropriation bill to put on any rider that it would want. All we are asking, I think, right here is that the city's budget continues. Congress does not lose that constitutional power at any single time. But having that predictability and continuity is essential, and I think looking at this layover clause as well, it is long overdue to try to remove that. The city has shown itself a good steward over the last 20 years, and so I would ask for that as well.

Thank you, Mr. Chairman. I appreciate it.

Senator BEGICH. Thank you very much.

Next we have the District of Columbia City Administrator Allen Lew, who has managed the daily operations since 2011. He has a distinguished record of service in the public and private sectors, including work to improve D.C. public education and supports infrastructure. Mr. Lew.

TESTIMONY OF ALLEN Y. LEW,¹ CITY ADMINISTRATOR, EXECUTIVE OFFICE OF THE MAYOR, THE DISTRICT OF COLUMBIA

Mr. LEW. Thank you, Mr. Chairman. My name is Allen Lew. I am the City Administrator of the District of Columbia. Thank you for the opportunity to provide testimony on behalf of Mayor Vincent Gray on the impact of the Federal Government shutdown on District government operations.

From October 1, 2013, through October 16, 2013, there was a lapse in Federal appropriations, also referred to as a "Federal Government shutdown," which affected various Federal agencies, departments, and offices. Since the District's budget is subject to appropriation by Congress, the shutdown impacted the operations of the District government.

During prior lapses in Federal appropriations, the District designated only a subset of District government operations to continue during the shutdown. Several agencies, such as the Department of Motor Vehicles, the Department of Parks and Recreation, and the District of Columbia Public Library would completely close, while many other agencies operated on a skeleton staff with many activities suspended.

¹ The prepared statement of Mr. Lew appears in the Appendix on page 27.

This year, the Mayor took the bold and unprecedented step of designating all operations of the District government as essential to the public safety, health, or protection of property, and therefore, all District operations were exempt from the shutdown. As far as I am aware, this is the first time ever under Home Rule that the District government remained fully open during a lapse in appropriations.

Although the District remained open, the lapse in Federal appropriations did impact District government operations. For the most part, however, the restriction on expenditures limited the District's ability to pay fiscal year 2014 operating costs, such as contractors and staff, to funds available in the Contingency Reserve Fund and the Emergency Reserve Fund.

During the shutdown, the majority of funds expended or allocated by the District were from the Contingency Reserve Fund. We realize that we would have to establish a rigorous process to authorize use of the Contingency Reserve Fund. In order to limit expenditures to less than the average daily amount and thereby extend the government's ability to operate from this Reserve Fund, as part of this authorize process each agency was required to submit to the Office of the City Administrator a formal request to access the Contingency Reserve Fund if the agency believed that a payment to a contractor or other third party should be made. Given the limited availability of funds, each request was closely reviewed by the relevant OCA analyst and legal staff to examine a variety of factors, including the following:

Whether the expenditure of funds was necessary, rather than merely the obligation of funds. For instances where only an obligation of funds was needed, generally to enter into a contract, we established a separate authorization process that did not require using the Contingency Reserve Fund. Establishing this process took a few days of drafting, review, and coordination among our office, the Office of the Chief Financial Officer (CFO), the Office of the Attorney General, as well as the Office of Contracting and Procurement. So during the first days of the shutdown, some allocations of the Contingency Reserve Fund were made for obligations rather than expenditures;

The degree to which the payment or obligation was necessary to protect the public health, safety, and welfare. Requests that did not have a strong connection to the protection of public health, safety, and welfare received lower priority;

Whether any other source of funds could be used to pay the expenditure. For some requested payments, alternate sources of funds were available, such as capital funds or Federal grant funds. In addition, many of the invoices the District received during the shutdown were for services that were provided during fiscal year 2013. These invoices could be paid or were paid with fiscal year 2013 funds and, therefore, did not require the use of the Contingency Reserve;

Whether payment could be delayed. Often we found that we had flexibility on when a payment could be made. If we were able to delay payment until later in the fiscal year, we did so and avoided use of the Contingency Reserve;

Whether the full payment needed to be made. If we determined that payment was critical and time-sensitive, we would further review the agency's request to determine whether a partial or short-term payment could be made. In many instances, we were able to limit the expenditure or obligation to a 2-week or 1-month period, thereby limiting our draw on the Contingency Reserve Fund.

Because of these stringent procedures, we were able to limit non-salary expenditures and obligations from the Contingency Reserve Fund to under \$20 million during the entire shutdown period. Of the total amount expended or allocated, the following five were \$1 million or more:

- \$7.4 million for the Department of Human Services for the Temporary Assistance for Needy Families;

- \$3.6 million for United Medical Center, to continue the hospital's operations during the shutdown;

- \$2.4 million for the Department of Corrections, for contractual obligations related to inmate services;

- \$1.1 million for the Department of Public Works, primarily for trash hauling and waste management; and

- \$1 million to the Department of Health for the Women, Infants, and Children program.

The District was forced to delay a number of regular payments due to limitation on its funds.

The first payment the District delayed was our quarterly contribution to the Washington Metropolitan Area Transit Authority (WMATA). This \$114 million payment was due by October 10, but because of the limited amount of appropriated funds available in the Contingency Reserve, we were unable to pay the full amount. The District made a partial payment of \$34 million from its capital budget. WMATA was able to continue operations with its funds on hand, and the District's remaining operating funds payment was made promptly after the shutdown ended.

Further, the District directed the D.C. Water and Sewer Authority to tap their cash reserves to continue operations during that Federal shutdown period. Also, two payments to Medicaid providers were delayed. The first payment, for \$89 million, was due on October 1; the second one, for \$35 million, was due on October 7.

During the shutdown, the Federal employees were eligible to make claims for unemployment insurance payments. In October 2012, the District logged just under 4,000 regular unemployment insurance claims. In October 2013 that number jumped to over 8,600. Federal claims for October 2012 were 120; claims in October 2013 were over 15,500. The District Department of Employment Services, the agency that manages the unemployment insurance program, was able to maintain its high level of service, but if the shutdown had continued, a very real potential existed for insolvency of the unemployment insurance fund due to the massive increase in claims without access to Federal borrowing to pay for the increased claims.

Also, during the shutdown the Mayor directed the Department of Public Works to collect trash that was accumulating at a number of public sites under the jurisdiction of the National Park Service. I believe it was 372 locations. The Mayor took this action in order

to address public health concerns and resident complaints. The District incurred costs of approximately \$92,000 to provide this service, which took place from October 5 through October 16.

As you can see, the District's success during the most recent shutdown was due to the Mayor's unfailing commitment to continue to provide services to the 647,000 District of Columbia residents and the ability to use funds that were available for unplanned needs.

I am sure you will agree that this is not an appropriate way for the District of Columbia, the Nation's capital, to operate. There is no reason that local funds raised through local taxes paid by District of Columbia residents and spent by the District of Columbia government should be entangled in Federal debates on Capitol Hill. Having the District of Columbia government's budget ensnarled in the Federal appropriations process unnecessarily threatens the District of Columbia's financial stability.

The Mayor appreciates that Congress has recently passed legislation that would permit the District of Columbia to spend its local funds in fiscal year 2014 as well as in fiscal year 2015 in the event that Congress has not passed a budget. While this temporary fix is helpful, residents of the District of Columbia need more. The obvious solution is to eliminate the threat of shutdown by enacting legislation that would separate the District's locally raised tax dollars from the Federal budget. Budget autonomy is a commonsense and practical step that would provide financial security to the Nation's capital and to its nearly 647,000 residents.

On behalf of Mayor Vincent Gray and the people of the District of Columbia, I ask that you move legislation that would give the District control over its local funds as soon as possible.

That concludes my testimony. I am available to answer any questions.

Senator BEGICH. Thank you very much.

Our next and last speaker is Robert Vogel, the Superintendent of the National Mall and Memorial Parks, a unit of the National Park Service, for which he has worked for 30 years. He is responsible for managing daily operations at The Mall, including some of the highest-profile monuments and other public parks throughout the city.

Thank you very much for being here.

TESTIMONY OF ROBERT VOGEL,¹ SUPERINTENDENT OF THE NATIONAL MALL AND MEMORIAL PARKS, NATIONAL PARK SERVICE

Mr. VOGEL. Thank you, Mr. Chairman.

From October 1 through October 16, 2013, the National Park Service, along with other bureaus and offices of the Department of the Interior, implemented a shutdown of our activities due to a lapse in appropriations.

In a shutdown caused by a lapse in appropriations, all Federal agencies are required by law to shut down any activities funded by annual appropriations that are not excepted by law. Because the Antideficiency Act prohibits Federal agency officials from incurring

¹ The prepared statement of Mr. Vogel appears in the Appendix on page 38.

financial obligations in the absence of appropriations, the National Park Service was forced to close all 401 National Park units and suspend operations. All park grounds, visitor centers, concessions, and park roads, including those in the District of Columbia, were required to be closed, and more than 20,000 National Park Service employees were furloughed.

This closure did not apply to through-roads in parks that provided primary access between points located outside of the parks, such as Rock Creek Parkway. It also did not apply to First Amendment activities at the National Mall and Memorial Parks.

During the closure, the National Park Service maintained security staff, including services provided by the United States Park Police and rangers, for emergency and disaster assistance. We also coordinated with the government of the District of Columbia on road closures and other critical life and safety issues. Projects that were funded from non-lapsing appropriations, such as the Washington Monument restoration, continued.

There was a great deal of attention paid to the implementation of the shutdown with respect to the monuments and memorials on the National Mall. On a normal day, there are 300 National Mall and Memorial Park employees on duty. They are onsite to provide the eyes and ears for the U.S. Park Police and ensure the safekeeping of our national treasures, as well as maintaining the landscape, and enhancing the visitor experience.

All but a dozen of the National Mall and Memorial Parks employees were furloughed. Even though the U.S. Park Police commissioned officers were excepted from the furlough, prudent steps were taken to secure life and property at these national icons.

In managing the closure, we worked to balance our legal obligations with the needs of our veterans who often visit war memorials on the National Mall. Throughout the shutdown, we worked with the Honor Flight Network and others to try to ensure that veterans were not turned away.

We are very aware that the District of Columbia government, businesses, and organizations that operate in the District, as well as residents, experienced disproportionate negative impacts from the closures of the sites managed by the National Park Service. We have a great deal of sympathy for those that experienced a disruption of activity and a loss of revenue.

The National Park Service does not plan for shutdowns; rather, we take pride in ensuring that the public has access to this Nation's treasures. So making our sites unavailable to the public was very painful to our staff, but necessary under the law. It was an enormous relief when Congress approved appropriations to fund the government through the remainder of fiscal year 2014, and we hope to have continuous funding in future years.

Thank you.

Senator BEGICH. Thank you all very much, and I agree with your last statement there. I hope so, too.

First I want to start with Congresswoman Norton. Thank you for your testimony. Thank you for your advocacy for years on the issue of budget autonomy. I have a unique role here not only chairing this Committee, but I sit on the Appropriations Committee. So when you made the comment that appropriators would not have a

problem with it, I do not have a problem with it. I think budget autonomy, also as a former mayor, makes a lot of sense in the sense of the work you need to do.

If I can ask just a couple of questions, then I have a couple for several here, but if you could look at the District—and obviously you do every day—what would be the one or two most challenging issues for the District to look at, not only current but down the road for the District, that you see kind of materializing, assuming that the government is funded, you fund it, everyone is moving forward? But what would be the challenges that are kind of sitting out there with Washington, DC, at this point?

Ms. NORTON. First, Mr. Chairman, I did not recognize you were on the Appropriation Committee, so I need to thank you, because the Senate Appropriation bill, in fact, did give the District budget autonomy.

Mr. Chairman, I can say to you truthfully that while the District has the challenges of big cities, its major challenges today come from the Congress, and let me give you two examples.

First is the budget autonomy example, and here leave aside shutdowns. Suppose the government, in fact, was on regular order—and it has not been on regular order now for years. But our appropriation got out; it got out on time. The very act of bringing the budget here cost the District on Wall Street. The District's budget has to be prepared many months in advance because it is now on the Federal, not its own or the typical time table—and its forecasts, therefore, are often wrong. You cannot forecast with that kind of time-frame.

The District schools—and that is where our biggest challenge is, if you were looking only at the city, Mr. Chairman, and our schools have improved significantly. In fact, they had, according to the nationwide tests, the best improvement of any school system in the United States. And it is the first priority of the city. But the schools are also put at a disadvantage because the District dare not spend its funds until it gets permission—and I use that word advisedly—from the Federal Government.

So I would say that the bundle of issues—that is the only way to talk about them, because they are many—that are encapsulated by having to bring the budget you raise to a body that has no information about it and has no reason to care about it is the No. 1 problem.

Mr. Chairman, added to that is one that my good friend spoke about, and we call it “legislative autonomy,” but I decided this year, in introducing it as my first bill of the year, to call it the “D.C. Paperwork Reduction Act.” This bill makes the budget autonomy bill look mildly efficient, because that one means that the District has to pass bills three times. According to the Council, about 65 percent of its work comes from having to pass bills because some of what they have to get done has to be done right away, and the Congress under the Home Rule Act requires District legislation to, and the word is, “layover” in the Congress for 30 of the Congress' legislative days or, in the event of criminal legislation, 60 legislative days.

Well, consider, Mr. Chairman, how often the Congress is out of session. That is simply the way Congress has always acted.

To give one example, it was not one of the most important bills in the Councils, but they changed the word “handicap” to “disability.” It took 9 months to become final.

Issues of far greater importance go through this same process. Now, you might say, well, in the Home Rule Act, Congress obviously wanted to make sure that the District was passing legislation that was only for the District and not Federal. Mr. Chairman, almost immediately the Congress abandoned the layover period. The layover period is simply not used.

If the Congress, in fact, finds something in the District that it wants to overturn, it uses the Appropriation bill. Only three times in 40 years has the Congress used the layover period to overturn DC legislation; two of those times the District did something by mistake. These were close issues, and it was not clear whether they were Federal or District issues. The District is very careful not to impinge on Federal jurisdiction. They only wish that the Federal Government was as careful about the District’s jurisdiction.

So I can say to you, Mr. Chairman, yes, we have the problems of a big city with too many poor people. We have the problems that our infrastructure needs what, frankly, much of what we, like every jurisdiction get from the Congress of the United States. We have problems in our schools. Those are problems endemic to the city. But when I look at major problems of the city, the two issues I have named have been put upon the District by the Congress and, if lifted off of the District, would bring very significant improvements to city operations.

Senator BEGICH. Very good. Thank you.

Congressman Davis, let me ask you, you talked about the layover power, but also you gave a little bit of history of what it looked like from your viewpoint in the early 1990s where the District was and where it kind of progressed. And from your looking from outside in during those years, I think 2003, 2007, when you serve in the Committee capacity, what would you say caused that to change? What was it? Was it the local communities kind of moving forward? What made that change?

Mr. DAVIS. Well, it was a combination of things. First of all, when we did the Control Board Act, which was in 1995—Mrs. Norton was part of that, Alice Rivlin, it was really a bipartisan bill that was introduced and signed into law 10 days later, real bipartisan—we created an independent chief financial officer, who cannot be removed. So we get good numbers out of the city. We upped the Inspector General. We rearranged, took away the debt service—

Senator BEGICH. Let me interrupt you. So the CFO position you did, when you say independent, is it almost like an independent auditor position versus a traditional CFO that might work for a mayor?

Mr. DAVIS. No, it is like a—I will yield to Allen on that.

Senator BEGICH. I am just thinking in my days as mayor, I had a CFO, I had a city manager. They worked directly for me, and I could remove them at any point.

Mr. LEW. No, the Mayor cannot remove him at any point, but it is kind of like a product of the Financial Control Board era.

Senator BEGICH. OK.

Mr. LEW. But, the CFO is viewed as having autonomy and independence, and it served the city well in the last 20 years, and it has allowed the city to hit AAA bond ratings. It got out of its junk status.

Senator BEGICH. Who appoints or how does that person get selected?

Mr. LEW. In this case, when Nat Gandhi decided to retire, the Mayor actually asked former Mayor Tony Williams, who was the first CFO, and Alice Rivlin to co-chair a search committee, and they brought in an executive recruiter, and there was about maybe eight or so prominent citizens in the District. Many private executives were on this committee, the search committee, and they did a national search, and they found several candidates, finalists. Of the three finalists, the Mayor interviewed them and then chose one, and the new CFO just really began working about a month ago, Jeff DeWitt from Arizona.

Senator BEGICH. So they can put them in, but they cannot take—

Mr. DAVIS. They cannot take him out, so—

Senator BEGICH. That is the question.

Mr. DAVIS. Exactly, and that has made all the difference in the world. You get balls and strikes called fairly. It is not political.

But, look, if the city does not balance its budget, the Control Board comes into power.

Senator BEGICH. Right.

Mr. DAVIS. That is huge leverage. We rearranged the city services. It operates more like a city. They were doing a lot of State functions before in the criminal justice area, with prisons and those kind of things. We got rid of the unfunded pension liability that the city had. It was billions of dollars hanging over its neck.

Ms. NORTON. That was proposed by—

Mr. DAVIS. They got a bad deal with the bidding, but Congress straightened out the bad deal they had given the city, I guess is the best way to put it. But, by and large, the voters have also shared some responsibility. If you take a look at the quality of people running and so on, it is not all perfect. I come from Virginia. It is not all perfect in Virginia either. [Laughter.]

But it has worked very well.

Senator BEGICH. Right.

Mr. DAVIS. And you have gotten responsible people, and the proof is in the pudding. You take a look at the tax base. It has expanded. The budget is growing. The population is growing. It was actually decreasing 20 years ago. They were losing businesses and losing people.

Senator BEGICH. Businesses are investing.

Mr. DAVIS. Absolutely. It is a reinvestment. As you know, the tax base is everything to a city.

Senator BEGICH. That is right.

Mr. DAVIS. And they have had leadership now that recognizes the tax base is not here automatically. You have to attract it. So it is a number of things that have brought the city to where it is, but it is a vibrant city. And you can drive around not just the downtown by the Verizon Center, but there are nodes all over the

city that are redeveloping quickly, and I think the prospects continue in that way.

Senator BEGICH. Let me ask you, Mr. Lew, what Congressman Davis just said made me think about it, and what Congresswoman Norton said, in regards to the financial condition. Give me a sense—first, so I understand your overall budget—what percentage is locally driven dollars versus—

Mr. LEW. I would say about two-thirds. Our overall budget is close to \$10 to \$12 billion. About two-thirds of it consists of local monies, and—

Senator BEGICH. So fees, property taxes, sales taxes—

Mr. LEW. Income tax, sales tax, real estate taxes. The rest of it, the Federal dollars, generally are the same kind of Federal dollars that would be—

Senator BEGICH. In any city.

Mr. LEW. For any city or any State.

Senator BEGICH. Grants and things like that.

Mr. LEW. Right, yes.

Senator BEGICH. And you mentioned the AAA bond rating that D.C. has. I am assuming back in the 1990s it was not that—

Mr. LEW. It was DDD, which is junk bond status.

Senator BEGICH. Yes, junk bond status.

Mr. LEW. And I think at that time there was, as opposed to \$1.5 billion in the surplus, there was like minus \$500 million. So the spread has actually been \$2 billion.

Ms. NORTON. Mr. Chairman, I ought to say that while that had something to do with the management of the city, it had everything to do with the fact that the city then was paying not only for \$5 billion in pension liability that the Federal Government had accrued pre- Home Rule; it was also paying for state functions that no city in the United States paid for. It continues to pay for some State functions. But the Revitalization Act that Tom Davis and I worked on took some State functions from the District of Columbia, and that plus lifting the \$5 billion pension liability from pre- Home Rule DC helped lift the city immediately out of its dire straits.

Senator BEGICH. Very good. Congressman Davis.

Mr. DAVIS. And the expanded tax base has made a huge difference, too, in terms of the city revenue.

Mr. LEW. Yes. As Congressman Davis mentioned, we have roughly 1,200 new residents every month joining the District.

Senator BEGICH. Wow.

Mr. LEW. And, many professional, educated, dual-career families are moving in, and so I think it has also helped. Basically you see it throughout the city, strollers and children, and the school system is actually seeing—for, I do not know, maybe over a decade or more, two decades, the school population was declining and declining and declining. Now it is actually going the other direction.

Senator BEGICH. I am assuming when you do the work with Wall Street with regards to bonds and other things, you are part of that equation, or you at least are aware of some of the activity that goes—

Mr. LEW. Yes, generally the delegation is the Mayor, the Chairman of the Council, the Chairman of the Finance Committee.

Senator BEGICH. Right.

Mr. LEW. Eric Goulet, who is sitting in the back, our Budget Director, and I.

Senator BEGICH. OK.

Mr. LEW. And the City Administrator and I are part of this annual pilgrimage to Wall Street.

Senator BEGICH. All right. I am assuming—and I kind of heard the comments. I just want to put it on the record again from your perspective as part of that team. I am assuming in the world of Wall Street that the more stability, certainty with your budgetary revenue streams or control that you have, makes them much more comfortable in the long term for working with you folks.

Mr. LEW. Definitely.

Senator BEGICH. Is that something that comes up in the conversations when you do your—and I know these experiences as mayor. We would have to go to New York.

Mr. LEW. Yes. And even the fact that, last year, when other cities were still suffering from the recession, we were getting an upgrade, and hopefully this year we will get another upgrade. So the city is doing really well. The city is, and I think the Washington Post reported maybe 2 years ago that operations, city operations, and services had improved over a 10-year period from the time when Tony Williams was Mayor and then on through Adrian Fenty and then the first part of Vincent Gray's term. And they actually indicated that the first part of the Vincent Gray administration in 2011 showed a spike. There was actually a greater improvement in spite of the fact that we were furloughing staff, and we had a larger budget pressures, and our reserves were spent significantly down at that point. And we have been able to—between 2011 and this year, we have been able to go from 700-something million reserve back to north of \$1.5 billion.

Senator BEGICH. Very good. Let me ask, if I can, Robert Vogel, I do not want this to be an uncomfortable question, but I need to ask it so I understand it, and I am thinking from my own perspective as a former mayor. When you went into the shutdown, when we all went into the shutdown here, you had by law to do certain things. But here is what we heard as the biggest complaint. If you can respond to this. It is one thing to close down or fence off a building, a structure, because you do not want people wandering in there, you do not know what is going to happen. But in actual park—just so you know, I could never imagine doing that in the city of Anchorage. I could imagine fencing off the skate facility so people are not inside there and doing things, or the recreational buildings, but the actual park is what it is. Do you think—and I might give you an easy out on this question. I mean, the way that was handled caused a lot of controversy, and I want to say I agree with the people on this one, that this was problematic. Do you think and are you looking at this—not that we ever want to think about a shutdown again. No one wants to. But are you thinking of a different approach? I understand the law as interpreted—no disrespect to lawyers. I am not a lawyer. I never want to be one. They always take the more conservative role on everything. But I also know lawyers have two opinions based on the client. And so it seemed like there was not some push here with whoever said the interpretation of the law is we have to fence these things off. In

reality, I get the building structure issue. There is a liability there. But walking across a park, no one is going to pick up, the World War II Veteran Memorial concrete and walk off with it.

I have been to the midnight tours of these parks. They are not shut down. They are open all the time. We are not staffing them at those levels. We have some security to a certain extent, but very limited, to say the least, on those. So help me understand that. And then what is the plan in the future? Because what happens with you affects the D.C.—I mean, when you have visitors coming that want to spend money in the economy, they now do not have a venue to go to. The only venue they would come to, to be frank with you, is our office, which was OK, but they were not happy. So help me understand that.

Mr. VOGEL. Surely. It was difficult, and, of course, we will continue to evaluate that. I think I should clarify that we did not close—we intentionally worked very hard to make sure that we were inconveniencing the public at a minimum that we could. We do get over 25 million visits on the National Mall each year, and during this time period of the closure, we estimate that in a normal October time period like that we would get over 1 million visitors.

So that huge number of visitors going to key memorials is problematic. We do have staffing 24 hours a day. We have rangers on duty until usually 10 or 11 o'clock at night and U.S. Park Police all the time. And I would say that late at night our visitation levels are much lower.

So our ability to protect the memorials, which clearly is our mandate by Congress, we felt really did require us to barricade in key locations, and that we needed to put the barricades so that, hundreds of thousands of people would not come into the sites and cause real impacts to them. I mean, vandalism certainly could be an impact, but certainly trash and the need to use restrooms and our fountains were not on, and there is a key staffing requirement to provide that legal mandate to protect the memorials.

These are national treasures that are entrusted to our care, and we take the responsibility very seriously. We made sure throughout the National Mall that we had key locations. We said let us not make people walk five blocks to get around the National Mall. Technically the entire National Mall and Memorial Parks was closed to the public, but I think we tried to work very closely to allow people to cross over The Mall and recognize that people were going to enter The Mall, but try to keep them out of the key memorials to protect them. And I would just use an example of last year's unfortunate paint-splashing vandalism of the Lincoln Memorial. And so we do feel that that large concentration of visitors which we would have that time of year would really be problematic without our staff, which is very critical to protect the resources.

Senator BEGICH. Are you re-examining your policy?

Mr. VOGEL. I do not think we are actively re-examining it. I think certainly if we went through the shutdown again we would evaluate what worked and what did not. I think that we hope we will not be in the situation again. I do feel like we tried very hard to make prudent decisions that are defensible for protection of the resources.

Senator BEGICH. I appreciate that. Thank you. I would make one point. When the vandalism did occur, we had full staffing and capacity.

Mr. VOGEL. That is correct.

Senator BEGICH. So not always when fully staffed can we prevent things.

Mr. VOGEL. That is correct.

Senator BEGICH. As a former manager or mayor, we had lots of parks, and yet you cannot manage them all in the sense of full oversight on them, and you are going to have some issues. But I would hope that—let us hope there is not another shutdown, but in the hopes of another shutdown that we have more review of how we approach this, recognizing that they are national treasures, but at the same time, no one is coming in and walking away with the Martin Luther King monument. It is a little large. But at the same time, access is what makes these parks very valuable, and most people are very respectful of the parks. We do have some, as you know—and I have seen it—where they are not too respectful. But generally we do. Open or closed, they are going to respect the parks because they are so unique in their own way.

But I would just encourage you, as you guys think of the long term, what is the next step if there is ever one, and if there is something that we need to do here, you should let us know. And I would be happy to work with you folks on that.

Mr. VOGEL. Thank you.

Senator BEGICH. Let me ask a couple more just real quick, and then we will close out the hearing. Congresswoman, the bill that Congressman Issa is moving forward, you had mentioned there are some issues that might be on the bill. Is that something that you could at some point—I know my guess is our staff has talked to yours to a certain extent, but would you be willing to pursue that with us to understand what those concerns that you have on that specific bill with Congressman Issa in regards to budget autonomy? And I would also say that on the other piece, I could not imagine me sending my local ordinances to the State legislature for their rejection or review. It would be ridiculous. First off, having them do something in 30 days is in itself a miracle, and here it is a real miracle. So that would be—just to let you know, that is something I would be interested in pursuing further with you. I think especially because the exercising of it has been so limited, and it was mentioned by both of you that the capacity for Congress to interject itself through the appropriations process is really where it has been done in the past anyway. So why have another layer?

Ms. NORTON. Mr. Chairman, I am very pleased that you would be willing to do that. Chairman Issa has worked on the budget autonomy bill. He has not worked on this bill as much—

Senator BEGICH. Correct.

Ms. NORTON [continuing]. Although I am talking with him about this bill. And his concern is that he is an authorizer. And, of course, I say, what has been the case, it is the appropriators who, if they want to do damage, it is they who have done it.

Senator BEGICH. Right.

Ms. NORTON. So he had tried something a little more complicated as a way to approach it, but since I have introduced this bill, he

has indicated he is open to talking with me again about how to do it. So I would very much like to talk with your staff.

Senator BEGICH. Fantastic. Thank you.

Let me end on this. One, first, thank you all. I wanted to have this hearing basically on the shutdown, but also on what we do to solve it, and it is clear to me that, especially after this hearing, the way to approach this is creating budget autonomy is the first step. That would give the flexibility and authority of the District to operate, at least two-thirds of their resources, or more, depending on the full budget and how it is being used or obligated at the time. Also down the road, the whole issue of the layover power, to deal with that at some point. But I will tell you, I am a supporter of budget autonomy. I think it is important. I mean, you have just confirmed it even more to me. I had my instincts as a former mayor, but now sitting in this role, I am even more convinced after today that what inaction or action we take here in Congress should not impact a city at the magnitude we do with your city.

Now, we get it that if we do not move money for certain grants and so forth, there is going to be some impact. That happened, as I stated, in Alaska in many ways. But it should not cause a shutdown of a city, especially right here where it is critical to keep the functions moving. So I will be anxious to work on preparing something that we can bring forward, because the faster we do this, to be frank with you, one less thing Congress has to meddle in that they do not need to meddle in. That is just my own view. Do what we do best, which I am still struggling to figure out those pieces of what we do best, figure out what we do not do well, and let the people who are doing it well—and you have put in the record some really good information, especially Mr. Lew in regards to the financial issues that continues to be problems for other cities in some ways. And when you about a surplus, I think every city would love to have a surplus at the size that you have, and that is a very positive statement. And a AAA bond rating, that is like platinum to a city. That is just property taxpayer money being saved every day without that kind of rating. So thank you for the information.

Unless there are some additional comments folks might have, I want to go ahead and close it, but if anyone else has any last comments I am happy to open up the mic to you.

[No response.]

Very good. Well, thank you all very much. Thanks for taking the time. At this time the meeting is adjourned. Thank you.

[Whereupon, at 3:35 p.m., the Subcommittee was adjourned.]

APPENDIX

ELEANOR HOLMES NORTON
DISTRICT OF COLUMBIA

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
SUBCOMMITTEES
- RANKING MEMBER ECONOMIC
DEVELOPMENT, PUBLIC BUILDINGS
AND EMERGENCY MANAGEMENT
- AVIATION
- WATER RESOURCES AND
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Congress of the United States
House of Representatives
Washington, DC 20515-1501

COMMITTEE ON OVERSIGHT
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CENSUS AND THE NATIONAL ARCHIVES
FEDERAL WORKFORCE, U.S. POSTAL
SERVICE AND LANDS POLICY
GOVERNMENT ORGANIZATION, EFFICIENCY
AND FINANCIAL MANAGEMENT

Testimony of Congresswoman Eleanor Holmes Norton
"Shutdown: Examining Federal Government Closure Impacts on the District of Columbia"
Subcommittee on Emergency Management, Intergovernmental Relations, and D.C.
January 30, 2014

Chairman Begich and Ranking Member Paul, I appreciate the opportunity to appear before you today. As the District of Columbia faced a shutdown of its local tax supported government during the recent federal government shutdown, the country understood how wrong and absurd it is to ignore the oldest American government principle of local government: local control over the dollars raised by local taxpayers. It is not surprising that a large majority of Republicans (72 percent), Independents (75 percent) and Democrats (71 percent) support budget autonomy for the District of Columbia. We are asking Congress to restore – yes, restore – budget autonomy to the District of Columbia. It is important to note that even if D.C. had budget autonomy, Congress would retain plenary authority over D.C. under the U.S. Constitution, so Congress could legislate on any D.C. matter at any time.

The District of Columbia had budget autonomy for the first 80 years of its existence. That period, close to the drafting of the Constitution, is used by the courts and constitutional scholars as showing the intent of the Framers of the Constitution. In fact, the District lost its original budget autonomy in 1878, when Congress passed the District of Columbia Organic Act, which also took away the various forms of elected government the District had had before then and imposed the permanent federally appointed three-commissioner form of government. The District did not get an elected government again until the Home Rule Act of 1973, which gave D.C. its current government structure. The Senate version of the Home Rule Act granted D.C. budget autonomy. Unfortunately, the House rejected that provision, and the final Home Rule Act required congressional approval of D.C.'s budget.

However, Congress has periodically revisited the issue since 1973. During the 1995-1996 federal government shutdowns, Congress, led by the Republican House, passed bills to permit D.C. to spend its local funds and remain open for part of the shutdowns. In 2004, the Republican-led Senate approved, by unanimous consent, a bill granting D.C. budget autonomy. The bill died in the House. The George W. Bush administration endorsed budget autonomy in its fiscal years 2004, 2005 and 2006 budgets.

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The bipartisan support for budget autonomy has only grown over the last couple of years. In the 112th Congress, then-chairman Joe Lieberman and -ranking member Susan Collins of the Senate Homeland Security and Governmental Affairs Committee introduced a bill to give D.C. budget autonomy. During that Congress, Representative Darrell Issa, the Republican chairman of the House Oversight and Government Reform Committee, which also has jurisdiction over the District, announced his support for budget autonomy. House Majority Leader Eric Cantor announced his support for budget autonomy soon thereafter.

This Congress, President Obama's fiscal year 2014 budget included a legislative provision to give D.C. budget autonomy. The Senate Appropriations Committee-passed fiscal year 2014 D.C. Appropriations bill included that provision. The Oversight and Government Reform Committee approved a bill that had most of the elements of budget autonomy. During last year's 16-day federal government shutdown, the Republican-led House passed a bill that would have permitted D.C. to spend its local funds and remain open during the shutdown. During floor debate on the bill, Representative Ander Crenshaw, the chairman of the appropriations subcommittee with jurisdiction over D.C., said, "[t]he District's locally raised funds should not be withheld from them during this current Federal shutdown. This disagreement that the Republicans and the Democrats are having over Federal spending shouldn't stop the District from using its own locally raised funds like any other city in America." The fiscal year 2014 continuing resolution (CR) that reopened the federal government included a provision that, for the first time ever, permitted D.C. to spend its local funds for the remainder of the fiscal year while federal agencies' spending authority expired before then. Even more significantly, while the fiscal year 2014 omnibus appropriations bill did not grant D.C. budget autonomy, it permits D.C. to spend its local funds in fiscal year 2015, at fiscal year 2015 levels, during a federal government shutdown and therefore remain open. As a result, D.C. does not have to worry about a shutdown threat until October 1, 2015.

Disputes over the federal budget have nothing to do with the District government's local funds. Indeed, the District government's fiscal condition is among the strongest in the country. The District government has had 18 consecutive balanced budgets, and has \$1.5 billion in reserves. I do not believe that any member of Congress wants to shut down the D.C. government and bring a large, complicated city to its knees due to a purely federal matter. Moreover, D.C. residents are not alone in relying on vital District government services. Federal officials, including the President, federal buildings, foreign embassies and dignitaries, and businesses rely daily on the city's services, as well.

Importantly, if the city had budget autonomy, it would no longer have to invest the time and money preparing contingency shutdown plans. When Congress cannot reach agreement on regular appropriations bills, it operates under CRs (with the District given the authority to spend its local funds at next year's levels under an agreement I reached with Republican appropriators several years ago) to avoid a government shutdown, but when it cannot reach an agreement on a CR, the federal government and therefore the D.C. government shut down. If the District

government shuts down, it could default under certain financing agreements and leases. Further, successive CRs greatly hinder the operations of the District government. Not only do successive CRs make it difficult for the city to plan its activities for the year, successive CRs greatly increase the city's costs of doing business. The city's partners, from Wall Street to small vendors, can charge a risk premium due to the uncertainty created by successive CRs.

In addition, budget autonomy would eliminate the uncertainty of the congressional approval process, which has a negative effect on the city's bond ratings, adding unnecessary interest costs for local taxpayers. Control over its local budget would significantly improve the District's ability to make accurate revenue forecasts, and would reduce the countless operational problems that result because the city's budget cannot be implemented until Congress approves it. Also of major importance, budget autonomy would allow the District to use the typical state and local government fiscal year (July 1-June 30), allowing ample time to prepare for the opening of schools in September, instead of the federal fiscal year (October 1-September 30). There would be benefits for Congress, as well. The D.C. local budget consumes valuable subcommittee, committee, and floor time in both houses of Congress, the most inefficient and redundant annual process in the Congress.

Members of Congress were sent to Washington to do the business of the nation. Members have no reason to be interested in or to become knowledgeable about the local budget of a single city. For years, the House and Senate have passed the District's local budget as is, and neither the House nor Senate Appropriations committees has had a hearing on the D.C. local budget for years. Recent history demonstrates that the Congress has itself been moving toward D.C. budget autonomy. We hope that last year's shutdown will be the final chapter on why the city's local budget should become effective upon passage by the city.

**Testimony of Tom Davis before the Subcommittee on Emergency Management,
Intergovernmental Relations, and the District of Columbia
January 30, 2014**

Chairman Begich, Senator Paul, Thank you for allowing me the opportunity to share my view on the impact of a Federal Government shutdown on the District of Columbia Budget and Operations.

As a point of reference, I chaired the House District of Columbia Subcommittee and the House Government Reform Committee during a period from 1995-2008. From that perch I was Chief sponsor of several pieces of legislation ranging from The Financial Responsibility Management Assistance Authority (FRMAA), also known as the Control Board, to the D.C. College Access Act, to School Vouchers, to parts of their Revitalization Act, to METRO Reauthorization. Prior to my service in the House, I was President of the Washington Metropolitan Council of Governments (COG) as well as Chairman of the Fairfax County Board of Supervisors, the Chief Elected Officer in Fairfax County.

The city today is far different from the city I oversaw as Subcommittee Chair in 1995, when a Control Board was placed over city operations, as a result of a decade of fiscal mismanagement and economic meltdown. The city's Bonds were Junk Bonds and the city was virtually bankrupt.

The city today is growing at a rate of over 1,000 people per month. Its tax base is expanding. Its crime rate has fallen dramatically and its Budget is running in the Black. I like to think that we did some good, as Republicans and Democrats, working together, establishing an independent Chief Financial Officer, an enhanced Inspector General, relieving the city from its unfunded pension liability, and restructuring the city Government to help the city back to health.

The voters of the city and its leadership also deserve some credit for making good decisions along the way. The need for Congressional micro-management is no longer present, as the city has shown itself to be a responsible steward of its own destiny. Moreover, the Spector of a dormant Control Board hangs over the city should it fail to balance its budget in any one year, and the Constitutional power of Congress to intervene at any time remains.

The overriding issue should be, "at what time and under what circumstances should Congress exercise its authority to intervene in District issues and governance." To that, I would like to offer my perspective.

To begin with, it is difficult to substantiate why the city's own Budget, raised through local taxes from local citizens, should be frozen or delayed just because Congress has not been able to pass the Appropriations for the Federal Government in a timely manner. Although this is a relatively rare occurrence, happening twice in 1995 and once last year, a federal shutdown wreaks havoc on the city's Budget and Operations, jeopardizing not

only city services but the operations of the Federal Government. Even when all employees are deemed essential, as the Mayor claimed last year, they cannot all get paid until the gridlock is resolved.

No other city in the world operates in this manner and with these restrictions. Why should our Capitol City, the Beacon light for the free world, endure this injustice? The answer of course, is that it should not. City taxpayers should be able to keep their city running with city tax dollars regardless of the Budget deadlocks on Capitol Hill.

A little history is in order. On June 21, 1783, a group of Revolutionary War Veterans marched on the Continental Congress then assembled in Philadelphia to demand payment felt due from the war. The Veterans were an angry lot and took over Freedom Hall and found the local Pennsylvania militia was sympathetic to their cause and offered no protection to the Congress. The Continental Congress was chased across the river to New Jersey. This occurred under the Articles of Confederation, and when the new Constitution was written, Madison and others present at the time believed that the Congress should not be at the mercy of an individual state or city for protection, but needed its own dedicated territory which the Congress itself would control, for its own protection. The District Clause was inserted in the Constitution stating at Article I, Section 8, Clause 17. "Congress shall have power to exercise exclusive legislation in all cases, whatsoever, over such District."

The actual site of Washington, D.C., was selected by a compromise on the Southern favored site on the Potomac, in return for Southern support for a Northern priority, assumption of Revolutionary war debt by the National Government. Congress proceeded to divide the city into two counties, Washington (ceded by Maryland) and Alexandria (conveyed by Virginia). There is no recorded contemporary consideration of the Convention or the ratifying Conventions to the question of how the city was to be governed. James Madison, in the Federalist Papers did assume the inhabitants "will have had their voice in the election of the government which is to exercise authority over them from their own suffrages will of course be allowed them."

Aware that not every issue pertaining to governance of the Federal City had been considered, Congress reserved for itself the ultimate authority to deal with the City's governance and over two hundred years various methods have been implemented to deal with issues that arose. I doubt that anyone envisioned the diverse city of over a half million people that has evolved or the myriad of complex issues in local governance that have emerged over that period of time. But the framers, in their wisdom, gave the flexibility to Congress to make the appropriate adjustments along the way.

When the city's home rule was restored in the 1970s, after nearly a Century of appointed leadership, Congress reserved for itself a layover provision of 30 legislative days to disapprove any ordinances passed by the City Council. These disapprovals were rarely exercised, and on only a few occasions did the Congress put any limitation on City actions independent of the layover period (Usually as a rider to an Appropriation Bill). Usually these were prohibitions on City spending for local priorities that were not in

keeping with National priorities at the time, ranging from medical insurance for domestic partners of City employees, to abortion to medical marijuana and needle exchange programs.

Over the past 20 years, with the exception of a handful of hot-button social issues, Congress has intervened only when action or inaction by the City Government interfered with ongoing working of the Federal Government, such as, a Bridge closing. Congress has not exercised its veto over a Council ordinance over that time and the City has operated relatively effectively.

It is hard to believe that our founders would have envisioned the inaction of Congress not passing a Budget, thereby shutting down the operations of the Municipal government that was supposed to protect it. Yet, that has been the unintended consequence of government shutdowns. And, while it may be another decade before we face the issue again, it is an appropriate time for Congress to address the issue in a proactive manner.

In doing so, Congress gives up NOTHING. The District Clause of the Constitution reserves the power of Congress to step in at any time. But, the change will allow continuity in City government that is not only more efficient but predictable. It also holds city elected officials responsible for bad results instead of just blaming the Congress. There is no reason to link the operation of local government with local money, to the dysfunction of the Congressional Budget process.

One of the sticking points in drafting consensus legislation around this issue pertains to Appropriation riders that are added to current Appropriations Bills. For example, if the Appropriations Bill from the previous year contains a prohibition on Abortion funding, and a current Bill is not enacted, would that prohibition expire, or would it be carried on subject to passing a new Appropriations Bill? This is a controversy that carries significant political ramifications.

I would suggest that the previous year's prohibitions be continued until the ensuing years Appropriation Bill is enacted, but that is a matter for current Legislators to resolve.

I know, as a Congress, you can do better. This Hearing is an important step in this process.



Government of the District of Columbia



Executive Office of the Mayor

Testimony of
Allen Y. Lew
City Administrator

**Public Hearing on the
Impact of the Government Shutdown
on the District of Columbia**

Senate Homeland Security and Governmental Affairs Committee
Subcommittee on Emergency Management, Intergovernmental Relations
and the District of Columbia
The Honorable Mark Begich, Chairman

January 30, 2014
2:30 p.m.

Room 342
Dirksen Senate Office Building
Washington, D.C.

Testimony of Allen Y. Lew
Senate Homeland Security and Governmental Affairs Committee
Subcommittee on Emergency Management, Intergovernmental Relations and the District of Columbia
The Honorable Mark Begich, Chairman
Public Hearing on the Impact of the Government Shutdown on the District of Columbia

Good afternoon Chairman Begich, Ranking Member Paul and members of the subcommittee. My name is Allen Y. Lew and I am the City Administrator of the District of Columbia. Thank you for this opportunity to provide testimony on behalf of Mayor Vincent C. Gray on the impact of the federal government shutdown on District government operations.

From October 1, 2013, through October 16, 2013, there was a lapse in federal appropriations, also referred to as a federal government shutdown, which affected various federal agencies, departments, and offices. Since the District's budget subject to appropriation by Congress, the shutdown impacted the operations of the District government.

It is important to note at the outset, however, that the impact of this shutdown on the District's operations was very limited in comparison to prior shutdowns. During prior lapses in federal appropriations, the District designated only a subset of District government operations to continue during the shutdown. Several agencies, such as the Department of Motor Vehicles, Department of Parks and Recreation, and DC Public Library would completely close, while many other agencies operated on a skeleton staff with many activities suspended.

This year, however, the Mayor took the bold and unprecedented step of designating all operations of the District government as essential to the public safety, health, or protection of property, and therefore all District operations were exempt from the shutdown. As far as I am aware, this is the

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first time ever in the Home Rule era that the District government remained fully open during a lapse in appropriations.

Although the District remained open, the lapse in federal appropriations did impact District government operations in some ways. Most significantly, because Congress had not approved the District's Fiscal Year 2014 (FY14) budget, the District could make actual payments to contractors and employees only from a limited set of funds that had been previously appropriated and were still available for expenditure. These funds included District capital funds, some federal grant funds, and Fiscal Year 2013 (FY13) funds that were used to satisfy FY13 obligations.

For the most part, however, the restriction on expenditures limited the District's ability to pay FY14 operating costs, such as contractors and staff, to funds available in the Contingency Reserve Fund and the Emergency Reserve Fund.

By way of background, both the Contingency Reserve Fund and the Emergency Reserve Fund are established in the Home Rule Act and the funds in those reserves are available for expenditure without annual Congressional appropriation.

Under the Home Rule Act, the Contingency Reserve Fund may only be used to pay for nonrecurring or unforeseen needs that arise during the fiscal year.

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Both the Mayor and the Chief Financial Officer determined that this condition was met by the shutdown.

The Emergency Reserve Fund may be used to provide for “unanticipated and nonrecurring extraordinary needs of an emergency nature” or during a state of emergency declared by the Mayor. The Emergency Reserve Fund may only be accessed after the Contingency Reserve has been exhausted. Because the Contingency Reserve Fund included adequate resources to allow the District to operate during the shutdown, we did not need to access the Emergency Reserve Fund.

At the beginning of the shutdown, there was approximately \$150 million available in the Contingency Reserve Fund. The Office of the Chief Financial Officer (OCFO) estimated that the District spends approximately \$10 million per day on employee salaries. Therefore, at the beginning of the shutdown, we set aside \$100 million of the Contingency Reserve Fund in order to ensure that we would be able to pay employees their full paycheck amounts through mid-October. The Mayor felt that it was critical that we make this commitment to our employees.

However, that left only \$50 million available from the Contingency Reserve Fund, and the OCFO estimated that on average the District spends approximately \$8 million per day on non-personnel operating expenses, such as contractor payments. We therefore realized that we would have to establish a rigorous process to authorize use of the Contingency Reserve

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Fund, in order to limit expenditures to less than the average daily amount and thereby extend the government's ability to operate from the Contingency Reserve Fund.

As part of this authorization process, each agency was required to submit to the Office of the City Administrator (OCA) a formal request to access the Contingency Reserve Fund if the agency believed that a payment to a contractor or other third party should be made. Given the limited availability of funds, each request was closely reviewed by the relevant OCA analyst and legal staff within OCA to examine a variety of factors, including the following:

- *Whether the expenditure of funds was necessary, rather than merely the obligation of funds.* For instances where only an obligation of funds was needed, generally to enter into a contract, we established a separate authorization process that did not require using the Contingency Reserve Fund.

Establishing this process took a few days of drafting, review, and coordination among our office, the Office of the Chief Financial Officer, the Office of the Attorney General, and the Office of Contracting and Procurement, so during the first days of the shutdown some allocations of Contingency Reserve funding were made for obligations rather than expenditures.

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- *The degree to which the payment or obligation was necessary to protect the public health, safety, or welfare.* Requests that did not have a strong connection to the protection of public health, safety, or welfare received lower priority.
- *Whether any other source of funds could be used to pay the expenditure.* For some requested payments, alternate sources of funds were available, such as capital funds or federal grant funds. In addition, many of the invoices the District received during the shutdown were for services that were provided during Fiscal Year 2013 (FY13). These invoices could be paid with FY13 funds and therefore did not require the use of the Contingency Reserve.
- *Whether payment could be delayed.* Often we found that we had flexibility on when a payment could be made. If we were able to delay payment until later in the fiscal year, we did so and avoided use of the Contingency Reserve.
- *Whether the full payment needed to be made.* If we determined that payment was critical and time-sensitive, we would further review the agency's request to determine whether a partial or short-term payment could be made. In many instances, we were able to limit the expenditure or obligation to a two-week or one-month period, thereby limiting our draw on the Contingency Reserve Fund.

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Because of these stringent procedures, we were able to limit non-salary expenditures and obligations from the Contingency Reserve Fund to approximately \$20 million during the entire shutdown period.

The majority of the amount that was expended or allocated from the Contingency Reserve Fund was for public-welfare-related expenditures. Of the total amount expended or allocated, the following five were \$1 million or more:

- \$7.4 million for the Department of Human Services for the Temporary Assistance for Needy Families (TANF) program and housing and meal services;
- \$3.6 million for United Medical Center, to continue the hospital's operations during the shutdown period;
- \$2.4 million for the Department of Corrections, for contractual obligations related to inmate services;
- \$1.1 million for the Department of Public Works, primarily for trash hauling and waste management; and
- \$1.0 million to the Department of Health for the Women, Infants, and Children (WIC) program.

As the shutdown continued, we also allocated an additional \$24.8 million from the Contingency Reserve Fund for employee salaries.

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Since the end of the shutdown, the Office of the Chief Financial Officer (OCFO) has worked to replenish the funds that were allocated from the Contingency Reserve. All of the funds that were allocated to employee salaries have been returned to the Contingency Reserve, and nearly all of the amounts that were allocated to agency expenditures and obligations have been returned as well.

Although we were able to pay almost all of the invoices in a timely manner during the shutdown, there were three significant payments that we were forced to delay during the shutdown.

The first payment the District delayed was our quarterly contribution to the Washington Metropolitan Area Transit Authority (WMATA). This \$114 million payment was due by October 10, but because of the limited amount of appropriated funds available in the Contingency Reserve, we were unable to pay the full amount. However, the District made a partial payment of \$34 million out of appropriated capital funds. WMATA was able to continue operations with its funds on hand, and the District's remaining, operating funds payment was made promptly after the shutdown ended.

The other two payments were both Medicaid payments to managed care organizations and fee-for-service providers. The first payment, for \$89 million, was due on October 1 and the second payment, for \$35 million, was due on October 7.

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Because of the potential impacts that delaying these payments could have had on medical service providers, we examined a number of ways to make the payments or mitigate the impact of non-payment. We initially considered making the \$89 million payment out of the Contingency Reserve Fund and replenishing the Contingency Reserve Fund with the federal Medicaid reimbursement funds, which are equal to 70% of the full payment.

However, we were informed by the Office of the Chief Financial Officer that federal appropriations authority to replenish the Contingency Reserve Fund in this way did not exist. We therefore discussed with the federal Center for Medicare and Medicaid Services (CMS) the possibility of the federal government directly paying its 70% Medicaid share to providers. However, CMS stated that this was not an available option. Finally, we examined the option of making a limited set of sub-payments only to providers who would be significantly impacted by delayed payments. While we were in the process of reviewing this possibility, the federal government shutdown ended, and therefore we did not need to further pursue this option.

During a shutdown, federal employees are eligible to make claims for unemployment insurance payments. In October 2012, the District logged just under 4,000 regular unemployment insurance claims, in October 2013 that number jumped to over 8,600. Federal claims for October 2012 were 120; claims in October 2013 were over 15,500. The District Department of Employment Services, the agency that manages the unemployment

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insurance program, was able to maintain its high level of service, but if the shutdown had continued, a very real potential existed for insolvency of the unemployment insurance fund due to the massive increase in claims without access to federal borrowing to pay for the increased claims.

Also, during the shutdown the Mayor directed the Department of Public Works to collect trash that was accumulating at public sites under the jurisdiction of the National Park Service. The Mayor took this action in order to address public health concerns and resident complaints. The District incurred costs of approximately \$92,000 to provide this service, which took place from October 5 through October 16.

As you can see, the District's success during the most recent shutdown was due to the Mayor's unfailing commitment to continue to provide government services to the 647,000 District of Columbia residents and the ability to use funds that were available for unplanned needs.

I am sure you will agree that this is not an appropriate way for the District of Columbia, the nation's capital, to operate. There is no reason that local funds raised through local taxes paid by District of Columbia residents and spent by the District of Columbia government should be entangled in federal debates on Capitol Hill. Having the District of Columbia government's budget ensnarled in the federal appropriations process unnecessarily threatens the District of Columbia's financial stability.

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The Mayor appreciates that Congress has recently passed legislation that would permit the District of Columbia to spend its local funds in Fiscal Year 2014 and 2015 in the event that Congress has not passed a budget. While this temporary fix is helpful, residents of the District of Columbia deserve more. The obvious solution is to eliminate the threat of shutdown by enacting legislation that would separate the District's locally raised tax dollars from the federal budget. Budget autonomy is a common sense and practical step that would provide financial security to the nation's capital and to its nearly 647,000 residents.

On behalf of Mayor Vincent C. Gray and the people of the District of Columbia, I ask you to move legislation that would give the District control over its local funds as soon as possible.

That concludes my testimony. I am available to answer any questions you may have.

STATEMENT OF ROBERT VOGEL, SUPERINTENDENT, NATIONAL MALL AND MEMORIAL PARKS, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS, SUBCOMMITTEE ON EMERGENCY MANAGEMENT, INTERGOVERNMENTAL RELATIONS, AND THE DISTRICT OF COLUMBIA, CONCERNING FEDERAL GOVERNMENT CLOSURE IMPACTS ON THE DISTRICT OF COLUMBIA.

January 30, 2014

Mr. Chairman, members of the Subcommittee, I appear before you today to discuss the National Park Service's operations in Washington, D.C. during the Federal government shutdown.

From October 1 through October 16, 2013, the National Park Service, along with other bureaus and offices of the Department of the Interior, implemented a shutdown of our activities due to a lapse in appropriations.

In a shutdown caused by a lapse in appropriations, all Federal agencies are required by law to shut down any activities funded by annual appropriations that are not excepted by law. Because the Antideficiency Act prohibits Federal agency officials from incurring financial obligations in the absence of appropriations, the NPS was forced to close all 401 National Park units – from the Grand Canyon to the National Mall – and suspend operations. All park grounds, visitor centers, concessions, and park roads were required to be closed, and more than 20,000 NPS employees were furloughed.

The NPS closure determination did not apply to through-roads in parks that provided primary access between points located outside of the parks, such as Rock Creek Parkway. It also did not apply to First Amendment activities at the National Mall and Memorial Parks and at Independence National Historical Park in Philadelphia.

During the closure, the National Park Service maintained law enforcement staff, including services provided by the U.S. Park Police and rangers for emergency and disaster assistance, and coordinated with the government of the District of Columbia on road closures and other critical life and safety issues. We also maintained our firefighting programs and surveillance activities as these are essential for the protection of life and property. Projects that were funded from non-lapsing appropriations also continued.

There was great deal of attention paid to the implementation of the shutdown with respect to the monuments and memorials under the care of the NPS on the National Mall. On a normal day, there are 300 National Mall and Memorial Park employees on duty. The rangers are on site to provide eyes and ears for the U.S. Park Police and ensure the safekeeping of our national treasures, enhance the visitor experience by sharing the history the memorials commemorate, keep the grounds and restrooms clean, maintain the landscape and fountains, and oversee special events that happen almost daily.

All but a dozen of the National Mall and Memorial Parks employees were furloughed during the shutdown. Even though the U.S. Park Police commissioned officers were excepted from the furlough, given the limited staff resources during the shutdown, prudent and practical steps were taken to secure life and property at these national icons where security has become increasingly complex in a post-9/11 world.

In managing the closure, we worked to balance our legal obligations with the needs of our veterans who often visit war memorials on the National Mall. Throughout the shutdown, we worked with the Honor Flight Network and others to try to ensure that veterans, including Honor Flight groups and members of their families, were not turned away from visiting the World War II Memorial and other war memorials.

The closure of national parks due to the lapse in appropriations had real and far-reaching impacts across the country: on families whose long-time plans were foiled; on businesses and communities who rely on national parks as economic engines; and on our employees who were furloughed or who have to deliver difficult news to visitors and perform functions that are antithetical to why many of us joined the National Park Service. We are very aware that the District of Columbia government and businesses and organizations that operate in the District, as well as District residents, experienced disproportionate negative impacts from the closures of the sites managed by the National Park Service. We have a great deal of sympathy for everyone that experienced a disruption of activity and loss of revenue during that time.

The NPS takes great pride in caring for our national treasures and in welcoming millions of visitors. Making our sites unavailable to the public was painful to our staff, but necessary under the law. It was an enormous relief when Congress approved appropriations to fund the government through the remainder of fiscal year 2014 and we hope to have continuous funding in the years ahead.

I would be glad to respond to any questions you may have.

**Post-Hearing Questions for the Record Submitted to
Mr. Allen Lew, City Administrator, Deputy Mayor for Operations**

Subcommittee on Emergency Management, Intergovernmental Relations, and the District
of Columbia

*"Shutdown: Examining Federal Government Closure's Impacts on the Federal
Government,"* January 30, 2014.

1. Your written statement provided this subcommittee with a comprehensive description of how the city was able to address its needs during the October shutdown. However, if that shutdown had lasted for a month or more, what were some of the most pressing issues you would have faced? For example,

- a) Would a long shut down affect the city's ability to contract for services or implement projects?

Both short-term and long-term shutdowns significantly impact the District's ability to contract for goods and services and to implement projects.

During a shutdown, the District's authority to expend funds is generally limited to no-year and multi-year appropriations. Because the District has only a limited amount of funding that it is authorized to expend during a shutdown, only a limited number of procurements and payments may be authorized and an administratively burdensome process becomes necessary to control spending. Because of the shutdown, contracts were put on hold or delayed and the terms of contracts that did move forward were generally limited to a matter of weeks or a month in order to control the District's potential expenditure obligations.

Even with this vigorous process, some non-discretionary payments needed to be delayed. Most significantly, payments of over \$100 million in Medicaid-related payments to managed care organizations and fee-for-service providers needed to be deferred. Such payment delays can place significant strains on the medical services providers; fortunately, the shutdown ended soon enough to avoid these impacts. The District also was forced to delay our quarterly contribution to the Washington Metropolitan Area Transit Authority (WMATA). This \$114 million payment was due by October 10, but because of the limited amount of appropriated funds available to the District, we were unable to pay the full amount. WMATA was able to continue operations with its funds on hand (including a District partial payment of \$34 million made out of appropriated capital funds), but a longer-term shutdown could have had a substantial impact on WMATA operations.

Thus, even short-term shutdowns not only significantly impact the day-to-day operations of the District government and the services provided to District residents, but also impacts third parties providing services to District residents and federal employees. Decoupling the District budget from the federal approval process will largely eliminate these unnecessary negative impacts.

b) Would there be any risks to long-term capital projects?

If a government shutdown should last for one or more months, the negative impact on revenue might force a cut in annual debt service on projected borrowing. In such a case, there would be less to pay principal and interest so capital projects of a lower priority would need to be cut and the capital budget authority rescinded.

c) Does the specter of a federal government shutdown pose a challenge to city officials' efforts to attract new investment? To what extent is "appropriations risk" factored in by the financial capital markets of Wall St., and is such an added cost quantified?

The District's relationship with the federal government continues to be a point of concern with the Rating Agencies. The rating agencies know that the District must have an appropriation in order to expend funds. Just last week, when District officials met with the Rating Agencies, the Rating Agencies reiterated the concern. Moreover, during the October federal government shutdown, the District received numerous questions from the Rating Agencies about the District's ability to operate, and one of the scoring items in the S&P matrix was lowered due to the uncertainty of the shutdown. Although S&P did not change the District's overall rating, any negative rating action would increase the District's cost of borrowing and even the threat of a negative rating action could impact the District's borrowing program. However, one has to differentiate District operational problems caused by appropriations issues from the ability to pay debt service on District bonds and notes. Per the Home Rule Act, repayment of GO bonds, TRANS, BANS and bonds issued under HRA section 490 does not require an appropriation (otherwise the interest rates would be much higher).

2. During the course of the hearing it was noted that temporary Congressional budget actions like Continuing Resolutions can create additional costs and inefficiencies to the District in the form of needing to pass emergency legislation. Can you provide this subcommittee with additional data on the costs incurred because of these extraordinary procedures?

The Office of the Chief Financial Officer scores every piece of legislation considered by the Council of the District of Columbia for its financial impact.

This process must occur prior to passage by the Council. In general, emergency, temporary and congressional review emergency bills do not result in direct fiscal impacts -- the OCFO takes steps to make sure emergency bills are scored as if they are permanent (over four-year financial plan period) unless the bill has an explicit provision to sunset in 90 days. However, there is significant inefficiency from this process. For instance, the OCFO must issue a new fiscal impact statement for each version of a bill (emergency, temporary, permanent) even if the only change is the date or reference names. This requires additional staff time (drafting and reviewing) without adding any new information. While the OCFO's office currently absorbs those costs, it is certainly not the best use of the time and resources of the OCFO.